

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOHN D. WHITFIELD

Plaintiff,

NOTICE OF APPEAL

v.

CITY OF NEW YORK, et al.,

20 CV 4674 (JMF)

Defendants.  
-----X

Notice is hereby given that John D. Whitfield, plaintiff-appellant in the above-named case, hereby appeal to the United States Court of Appeals for Second Circuit from the Opinion and Order granting Defendants' motion to dismiss in part and denying that motion in part, and denying plaintiff-appellant's cross motion for partial summary judgement; dismissing Plaintiff's First Amendment retaliation claims against the individual Defendants and his Fourteenth Amendment discrimination (selective treatment) claims, entered in this action on the 23<sup>rd</sup> day of December 2024, and from the Memorandum Opinion and Order denying Plaintiff's motion for Reconsideration and Reargument entered on the 29<sup>th</sup> day of January 2025. This appeal is from each and every part of both Opinions and Orders.

Dated: February 3, 2025

Yours, etc.,

*John D. Whitfield*

John D. Whitfield-Appellant-Pro Se  
10201 Flatlands Avenue # 52  
Brooklyn, NY 11236  
347-355-9083  
[johnwhitfield471@gmail.com](mailto:johnwhitfield471@gmail.com)

APPEAL,ECF,PRO-SE,REOPEN

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:20-cv-04674-JMF**

Whitfield v. City of New York et al  
Assigned to: Judge Jesse M. Furman  
Case in other court: U.S. Court of Appeals, 2nd Circ.,  
22-00412  
Cause: 28:1331 Fed. Question

Date Filed: 06/16/2020  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**John David Whitfield**

represented by **John David Whitfield**  
10201 Flatlands Avenue  
Ste # 52  
Brooklyn, NY 11236  
347-355-9083  
Email: [johnwhitfield471@gmail.com](mailto:johnwhitfield471@gmail.com)  
PRO SE

V.

**Defendant**

**City of New York**  
*officially*

represented by **Angela M. Wanslow**  
New York City Law Department  
100 Church St.  
New York, NY 10007  
212-356-2441  
Email: [amw@pwlawyers.com](mailto:amw@pwlawyers.com)  
**TERMINATED: 01/02/2025**  
**LEAD ATTORNEY**

**Rachel Kreutzer**  
New York City Law Department  
100 Church Street  
Ste 2-109g  
New York, NY 10007  
212-356-4083  
Email: [rkreutze@law.nyc.gov](mailto:rkreutze@law.nyc.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Joseph Cardieri**  
*individually*

represented by **Angela M. Wanslow**  
(See above for address)  
**TERMINATED: 01/02/2025**  
**LEAD ATTORNEY**

**Rachel Kreutzer**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Kathleen Skowyra**  
*individually*

represented by **Angela M. Wanslow**  
(See above for address)  
**TERMINATED: 01/02/2025**  
**LEAD ATTORNEY**

**Rachel Kreutzer**  
(See above for address)

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Defendant**

**Jennifer Fellman**  
*individually*

represented by **Angela M. Wanslow**  
(See above for address)  
*TERMINATED: 01/02/2025  
LEAD ATTORNEY*

**Rachel Kreutzer**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Defendant**

**Phoebe Rosen**  
*individually*

represented by **Angela M. Wanslow**  
(See above for address)  
*TERMINATED: 01/02/2025  
LEAD ATTORNEY*

**Rachel Kreutzer**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Defendant**

**David A. Hansell**  
*individually*

represented by **Angela M. Wanslow**  
(See above for address)  
*TERMINATED: 01/02/2025  
LEAD ATTORNEY*

**Rachel Kreutzer**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
06/16/2020	<u>1</u>	COMPLAINT against Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr. (Filing Fee \$ 400, Receipt Number XXXX)Document filed by John D. Whitfield.(rdz) (Entered: 06/19/2020)
06/16/2020		Case Designated ECF. (rdz) Modified on 6/19/2020 (rdz). (Entered: 06/19/2020)
06/16/2020		Magistrate Judge Stewart D. Aaron is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: <a href="https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf">https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf</a> . (rdz) (Entered: 06/19/2020)
06/16/2020	<u>2</u>	CIVIL COVER SHEET filed. (rdz) (Entered: 06/19/2020)
06/16/2020	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Joseph Cardieri, re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)
06/16/2020	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to City of New York, re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)
06/16/2020	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Jennifer Fiellman, Esq., re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)
06/16/2020	<u>6</u>	REQUEST FOR ISSUANCE OF SUMMONS as to David A. Hansell, re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)

06/16/2020	<u>7</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Phoebe Rosen, re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)
06/16/2020	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Kathleen Skowyra, re: <u>1</u> Complaint. Document filed by John D. Whitfield..(rdz) (Entered: 06/19/2020)
06/19/2020		SUMMONS ISSUED as to Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra. (nb) (Entered: 06/19/2020)
06/19/2020		Mailed a copy of Summons Issued to John D. Whitfield 10201 Flatlands Ave. #52 Brooklyn, NY 11236. (nb) (Entered: 06/19/2020)
07/08/2020		Pro Se Payment of Fee Processed: Money Order \$400.00 processed by the Finance Department on 6/16/2020, Receipt Number 465401262055. (vf) (Entered: 07/08/2020)
07/16/2020	<u>10</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint served. Jennifer Fellman served on 7/7/2020, answer due 7/28/2020. Service was accepted by Jennifer Rodriguez, NYC Administration for Children's Service(ACS). Document filed by John D. Whitfield. (sc) (Entered: 07/16/2020)
07/16/2020	<u>11</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint; served. Joseph Cardieri served on 7/7/2020, answer due 7/28/2020. Service was accepted by Ana Rodriguez, NYC Administration for Children's Services. Document filed by John D. Whitfield. (sc) (Entered: 07/16/2020)
07/16/2020	<u>12</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint served. David A. Hansell served on 7/7/2020, answer due 7/28/2020. Service was accepted by Ana Rodriguez, NYC Administration for Children's Services. Document filed by John D. Whitfield.(sc) (Entered: 07/16/2020)
07/16/2020	<u>13</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint; served. City of New York served on 7/7/2020, answer due 7/28/2020. Service was accepted by Jerry Bradshaw, NYC Dept. of Law. Document filed by John D. Whitfield. (sc) (Entered: 07/16/2020)
07/16/2020	<u>14</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint served. Phoebe Rosen served on 7/7/2020, answer due 7/28/2020. Service was accepted by Ana Rodriguez, NYC Administration for Children's Services. Document filed by John D. Whitfield. (sc) (Entered: 07/16/2020)
07/16/2020	<u>15</u>	SUMMONS RETURNED EXECUTED. Summons and Complaint served. Kathleen Skowyra served on 7/7/2020, answer due 7/28/2020. Service was accepted by Ana Rodriguez, NYC Administration for Children's Services. Document filed by John D. Whitfield. (sc) (Entered: 07/16/2020)
07/17/2020	<u>16</u>	FIRST LETTER MOTION for Extension of Time to File Response/Reply <i>to the Complaint</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated June 17, 2020. Document filed by City of New York..(Wanslow, Angela) (Entered: 07/17/2020)
07/17/2020	<u>17</u>	ORDER granting <u>16</u> Letter Motion for Extension of Time to File Response/Reply. Application GRANTED. The Court notes that the City's deadline to answer or otherwise respond to the Complaint was July 28, 2020, not June 28, 2020. Regardless, the deadline is now EXTENDED to August 31, 2020. The Clerk of Court is directed to terminate ECF No. 16 and mail a copy of this Order to Plaintiff. SO ORDERED. (Signed by Judge Jesse M. Furman on 7/17/2020) (rro) Transmission to Docket Assistant Clerk for processing. (Entered: 07/17/2020)
07/17/2020		Set/Reset Deadlines: Joseph Cardieri answer due 8/31/2020; City of New York answer due 8/31/2020; Jennifer Fellman answer due 8/31/2020; David A. Hansell answer due 8/31/2020; Phoebe Rosen answer due 8/31/2020; Kathleen Skowyra answer due 8/31/2020. (rro) (Entered: 07/17/2020)
07/17/2020		Mailed a copy of <u>17</u> Order on Motion for Extension of Time to File Response/Reply, to John D. Whitfield at 10201 Flatlands Ave., #52, Brooklyn, NY 11236. (dsh) (Entered: 07/17/2020)
07/21/2020	<u>18</u>	MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING,re: for Permission for John D. Whitfield to participate in electronic case filing in this case. Document

		filed by John D. Whitfield.(sc) (Entered: 07/21/2020)
07/21/2020	<u>19</u>	PRO SE CONSENT TO RECEIVE ELECTRONIC SERVICE. The following party: John D. Whitfield consents to receive electronic service via the ECF system. Document filed by John D. Whitfield.(sc) (Entered: 07/21/2020)
07/21/2020	<u>20</u>	NOTICE OF APPEARANCE PRO SE by John D. Whitfield. (sc) (Entered: 07/21/2020)
07/22/2020	<u>21</u>	MEMO ENDORSED ORDER granting <u>18</u> Motion for Permission for Electronic Case Filing. ENDORSEMENT: Application GRANTED. The Clerk of Court is directed to terminate ECF No. 18. SO ORDERED. (Signed by Judge Jesse M. Furman on 7/22/20) (yv) (Entered: 07/22/2020)
08/27/2020	<u>22</u>	SECOND LETTER MOTION for Extension of Time to File Response/Reply to the <i>Complaint</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated 08/27/2020. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr. (Attachments: # <u>1</u> Exhibit Order Denying Art 78 Petition).(Wanslow, Angela) (Entered: 08/27/2020)
08/28/2020	<u>23</u>	<b>Deadlines vacated as per Judge's Order dated 09/15/2020, Doc. # 28</b> ORDER granting <u>22</u> Letter Motion for Extension of Time to File Response/Reply. Application GRANTED. The Clerk of Court is directed to terminate ECF No. 22. SO ORDERED. (Signed by Judge Jesse M. Furman on 8/28/20) (yv) Modified on 9/15/2020 (yv). (Entered: 08/28/2020)
08/28/2020		Set/Reset Deadlines: All Defendants. (yv) (Entered: 08/28/2020)
09/14/2020	<u>24</u>	FIRST MOTION to Dismiss <i>the Complaint</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr. Responses due by 9/14/2020.(Wanslow, Angela) (Entered: 09/14/2020)
09/14/2020	<u>25</u>	DECLARATION of ACC Angela M. Wanslow in Support re: <u>24</u> FIRST MOTION to Dismiss <i>the Complaint</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr. (Attachments: # <u>1</u> Exhibit Ex. A_Am. Verified Petition, # <u>2</u> Exhibit Ex. B_Verified Answer, # <u>3</u> Exhibit Ex. C_Ord Denying Petition, # <u>4</u> Exhibit Ex. D_Whitfield Files).(Wanslow, Angela) (Entered: 09/14/2020)
09/14/2020	<u>26</u>	MEMORANDUM OF LAW in Support re: <u>24</u> FIRST MOTION to Dismiss <i>the Complaint</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr..(Wanslow, Angela) (Entered: 09/14/2020)
09/14/2020	<u>27</u>	NOTICE of Local Rule 12.1 Notice to Pro Se Plaintiff re: <u>24</u> FIRST MOTION to Dismiss <i>the Complaint</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr..(Wanslow, Angela) (Entered: 09/14/2020)
09/15/2020	<u>28</u>	ORDER, It is hereby ORDERED that Plaintiff shall file any amended complaint by October 26, 2020. If Plaintiff believes that the pleading of additional facts will cure deficiencies identified in the motion to dismiss, the Plaintiff should include those facts in the amended complaint. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss. If no amended complaint is filed, Plaintiff shall serve any opposition to the motion to dismiss by October 26, 2020. Defendants' reply, if any, shall be served by December 9, 2020. This Order VACATES the deadlines set forth in the Court's previous August 28, 2020, Order, see ECF No. 23. SO ORDERED. ( Amended Pleadings due by 10/26/2020.) (Signed by Judge Jesse M. Furman on 9/15/20) (yv) (Entered: 09/15/2020)
09/17/2020	<u>29</u>	DECLARATION of Damaris Almonte of <i>Service of Motion to Dismiss on Pro Se Plaintiff</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr..(Wanslow, Angela) (Entered: 09/17/2020)
10/16/2020	<u>30</u>	FIRST AMENDED COMPLAINT amending <u>1</u> Complaint against Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyr with JURY DEMAND.Document filed by John David Whitfield. Related



		document: <u>1</u> Complaint. (Attachments: # <u>1</u> Exhibit This is the memoir; the main document/exhibit relied upon to deny employment).(Whitfield, John) (Entered: 10/16/2020)
10/26/2020	<u>31</u>	FIRST LETTER MOTION for Extension of Time to File Response/Reply to the <i>First Amended Complaint</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated 10/26/2020. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 10/26/2020)
10/26/2020	<u>32</u>	ORDER granting in part and denying in part <u>31</u> Letter Motion for Extension of Time to File Response/Reply. As it stands, Defendants' deadline to respond is actually November 6, 2020. See ECF No. 28 (setting the deadline to respond as three weeks after Plaintiff filed his amended complaint). Nonetheless, the application to extend the deadline for Defendants to respond to the Complaint is GRANTED, but only until December 4, 2020. This extension provides Defendants with four additional weeks to respond, as opposed to the six weeks Defendants initially requested. The Clerk of Court is directed to terminate ECF No. 31. SO ORDERED. (Signed by Judge Jesse M. Furman on 10/26/20) (yv) (Entered: 10/26/2020)
10/26/2020		Set/Reset Deadlines: All Defendants. (yv) (Entered: 10/26/2020)
12/04/2020	<u>33</u>	FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra. Responses due by 12/4/2020.(Wanslow, Angela) (Entered: 12/04/2020)
12/04/2020	<u>34</u>	AFFIDAVIT of Angela M. Wanslow in Support re: <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra. (Attachments: # <u>1</u> Exhibit Ex. A – Plf's Art 78 Am Verified Pet, # <u>2</u> Exhibit Ex. B – Ex. B – Defs' Art 78 Verified Ans, # <u>3</u> Exhibit Ex. C – Ord Denying Plf's Art 78 Am Verified Pet, # <u>4</u> Exhibit Ex. D – YDS Hiring Report).(Wanslow, Angela) (Entered: 12/04/2020)
12/04/2020	<u>35</u>	MEMORANDUM OF LAW in Support re: <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 12/04/2020)
12/04/2020	<u>36</u>	NOTICE of Local Rule 12.1 to Pro Se Plaintiff re: <u>34</u> Affidavit in Support of Motion, <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> ., <u>35</u> Memorandum of Law in Support of Motion,. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 12/04/2020)
12/07/2020	<u>37</u>	ORDER denying as moot <u>24</u> Motion to Dismiss. In light of Defendants' new motion to dismiss, see ECF No. 33, Defendants' earlier motion to dismiss filed at ECF No. 24 is hereby DENIED as moot. Plaintiff's opposition to the new motion to dismiss is due by January 4, 2021. Defendants' reply, if any, is due by January 11, 2021. The Clerk of Court is directed to terminate ECF No. 24. Plaintiff, who is proceeding without counsel, has consented to receive electronic service of this Order through ECF. SO ORDERED. (Signed by Judge Jesse M. Furman on 12/7/20) (yv) (Entered: 12/07/2020)
12/07/2020		Set/Reset Deadlines as to <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . Responses due by 1/4/2021. Replies due by 1/11/2021. (yv) (Entered: 12/07/2020)
01/02/2021	<u>38</u>	AFFIDAVIT of John D. Whitfield in Opposition re: <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> .. Document filed by John David Whitfield. (Attachments: # <u>1</u> Affidavit Plaintiff's Affidavit in support of Opposition to defendants' motion to dismiss, # <u>2</u> Exhibit Plaintiff's Exhibit 1, # <u>3</u> Exhibit Plaintiff's Exhibit 2, # <u>4</u> Exhibit Plaintiff's Exhibit 3, # <u>5</u> Exhibit Plaintiff's Exhibit 4, # <u>6</u> Exhibit Plaintiff's Exhibit 5, # <u>7</u> Exhibit Plaintiff's Exhibit 6, # <u>8</u> Exhibit Plaintiff Exhibit 7, # <u>9</u> Exhibit Plaintiff's Exhibit 8, # <u>10</u> Exhibit Plaintiff's Exhibit 9).(Whitfield, John) (Entered: 01/02/2021)

01/05/2021	<u>39</u>	FIRST LETTER MOTION for Extension of Time to File Response/Reply to <i>Plf's Opp. to Def's Motion to Dismiss the FAC</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated 1/5/2021., FIRST LETTER MOTION for Leave to File Excess Pages in Reply to <i>Plf's Opp</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated 1/5/2021. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 01/05/2021)
01/06/2021	<u>40</u>	FIRST LETTER addressed to Judge Jesse M. Furman from John D. Whitfield dated January 6, 2021 re: Response to Defendants' request to file an oversized reply and in response to Defendants' request for an extension of time to reply. Document filed by John David Whitfield..(Whitfield, John) (Entered: 01/06/2021)
01/06/2021	<u>41</u>	ORDER granting <u>39</u> Letter Motion for Extension of Time to File Response/Reply re <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . ( Replies due by 1/25/2021.); granting in part and denying in part <u>39</u> Letter Motion for Leave to File Excess Pages. Defendants are granted up to 15 pages for their reply and granted an extension until January 25, 2021. The Clerk of Court is directed to terminate ECF No. 39. Plaintiff, who is proceeding without counsel, has consented to receiving electronic service of this Order through ECF. See ECF No. 19. SO ORDERED. (Signed by Judge Jesse M. Furman on 1/6/21) (yv) (Entered: 01/06/2021)
01/25/2021	<u>42</u>	REPLY MEMORANDUM OF LAW in Support re: <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 01/25/2021)
03/19/2021	<u>43</u>	FIRST LETTER addressed to Judge Jesse M. Furman from John D. Whitfield, Plaintiff, Pro Se dated 3/19/2021 re: Petition to file & serve late Notice of Claim granted. Document filed by John David Whitfield. (Attachments: # <u>1</u> Appendix State Court Decision & Order, # <u>2</u> Appendix Notice of Claim, # <u>3</u> Appendix Acknowledgement of Receipt of Notice of Claim).(Whitfield, John) (Entered: 03/19/2021)
04/29/2021	<u>44</u>	MEMORANDUM OPINION AND ORDER re: <u>33</u> FIRST MOTION to Dismiss <i>the First Amended Complaint</i> . filed by Jennifer Fellman, Kathleen Skowyra, Joseph Cardieri, Phoebe Rosen, David A. Hansell, City of New York. For the foregoing reasons, Defendants motion to dismiss must be and is GRANTED on the basis of res judicata. (The Court need not and does not reach Defendants other arguments for dismissal.) The Clerk of Court is directed to terminate ECF No. 33, to enter judgment in favor of Defendants, and to close this case. (There is no need to mail a copy of this Memorandum Opinion and Order to Whitfield, as he has consented to receive Court filings through the ECF system. See ECF No. 19.) The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See <i>Coppedge v. United States</i> , 369 U.S. 438, 444–45 (1962). SO ORDERED. (Signed by Judge Jesse M. Furman on 4/29/2021) (kv) Transmission to Orders and Judgments Clerk for processing. (Entered: 04/29/2021)
04/30/2021	<u>45</u>	CLERK'S JUDGMENT re: <u>44</u> Memorandum & Opinion. in favor of City of New York, David A. Hansell, Jennifer Fellman, Joseph Cardieri, Kathleen Skowyra, Phoebe Rosen against John David Whitfield. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Memorandum Opinion and Order dated April 29, 2021, Defendants' motion to dismiss must be and is GRANTED on the basis of res judicata. Judgment is entered in favor of Defendants, and this case is closed. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. (Signed by Clerk of Court Ruby Krajick on 4/30/2021) (Attachments: # <u>1</u> Notice of Right to Appeal) (dt) (Entered: 04/30/2021)
05/04/2021	<u>46</u>	FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion,,,, <u>45</u> Clerk's Judgment,,, <i>dismissing the First Amended Complaint on the basis of res judicata</i> . Document filed by John David Whitfield. Return Date set for 5/13/2021 at 09:30 AM..(Whitfield, John) (Entered: 05/04/2021)
05/04/2021	<u>47</u>	ORDER re: <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion, <u>45</u> Clerk's Judgment, <i>dismissing the First Amended Complaint on the basis of res</i>

		<i>judicata</i> . filed by John David Whitfield, Set Deadlines/Hearing as to <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion, <u>45</u> Clerk's Judgment, <i>dismissing the First Amended Complaint on the basis of res judicata</i> . Earlier today, Plaintiff filed a motion for reconsideration of the Court's April 29, 2021 Memorandum Opinion & Order, ECF No. 44. See ECF No. 46. Defendants shall file any opposition to the motion by May 18, 2021. Plaintiff shall file any reply by June 1, 2021. Plaintiff, who is proceeding without counsel, has consented to receive electronic service of this Order through ECF. See ECF No. 19. SO ORDERED. :( Responses due by 5/18/2021, Replies due by 6/1/2021.) (Signed by Judge Jesse M. Furman on 5/4/21) (yv) (Entered: 05/04/2021)
05/14/2021	<u>48</u>	FIRST LETTER MOTION for Extension of Time to Respond to Plaintiff's Motion for Reconsideration addressed to Judge Jesse M. Furman from Angela M. Wanslow dated May 14, 2021. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 05/14/2021)
05/15/2021	<u>49</u>	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from John D. Whitfield, Plaintiff, Pro Se dated 5/15/2021 re: <u>48</u> FIRST LETTER MOTION for Extension of Time to Respond to Plaintiff's Motion for Reconsideration addressed to Judge Jesse M. Furman from Angela M. Wanslow dated May 14, 2021. <i>objection to a month extension of time to respond</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 05/15/2021)
05/17/2021	<u>50</u>	ORDER granting <u>48</u> Letter Motion for Extension of Time. The Application is GRANTED. Defendants shall file any opposition to Plaintiff's motion for reconsideration, ECF No. 46, by June 18, 2021. Plaintiff shall file any reply by July 6, 2021. Plaintiff, who is proceeding without counsel, has consented to receive electronic service of this Order through ECF. See ECF No. 19. The Clerk of Court is directed to terminate ECF No. 48. SO ORDERED. (Signed by Judge Jesse M. Furman on 5/14/21) (yv) (Entered: 05/17/2021)
05/17/2021		Set/Reset Deadlines as to <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion, <u>45</u> Clerk's Judgment, <i>dismissing the First Amended Complaint on the basis of res judicata</i> . ( Responses due by 6/18/2021, Replies due by 7/6/2021. ) (yv) (Entered: 05/17/2021)
06/18/2021	<u>51</u>	MEMORANDUM OF LAW in Opposition re: <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion,,, <u>45</u> Clerk's Judgment,,, <i>dismissing the First Amended Complaint on the basis of res judicata</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 06/18/2021)
06/28/2021	<u>52</u>	FIRST LETTER MOTION for Extension of Time to File Response/Reply to Defendants' Opposition to the Motion for Reconsideration addressed to Judge Jesse M. Furman from John D. Whitfield, Plaintiff, Pro Se dated 6/28/2021. Document filed by John David Whitfield. (Attachments: # <u>1</u> Stipulation agreeing to the Extension of time to reply & 6/26/2021 email).(Whitfield, John) (Entered: 06/28/2021)
06/28/2021	<u>53</u>	ORDER granting <u>52</u> Letter Motion for Extension of Time to File Response/Reply re <u>52</u> FIRST LETTER MOTION for Extension of Time to File Response/Reply to Defendants' Opposition to the Motion for Reconsideration addressed to Judge Jesse M. Furman from John D. Whitfield, Plaintiff, Pro Se dated 6/28/2021. The Application is GRANTED. Plaintiff must file his reply brief no later than July 27, 2021. Plaintiff, who is proceeding without counsel, has consented to receive electronic service of this Order through ECF. See ECF No. 19. The Clerk of Court is directed to terminate ECF No. 52. Replies due by 7/27/2021. (Signed by Judge Jesse M. Furman on 6/28/2021) (cf) (Entered: 06/28/2021)
07/14/2021	<u>54</u>	FIRST MOTION for Sanctions against defendants' attorneys pursuant to FRCP Rule 11 and the Court's inherent authority for submitting frivolous allegations in opposition to Plaintiff's reconsideration motion. Document filed by John David Whitfield. (Attachments: # <u>1</u> Exhibit Gmail demonstrating that Plaintiff served this sanction motion on defendants' attorneys under Rule 5, requesting them to remove the allegations that violate FRCP Rule 11).(Whitfield, John) (Entered: 07/14/2021)



07/14/2021	<u>55</u>	ORDER with respect to <u>54</u> Motion for Sanctions: Any opposition shall be filed by July 28, 2021; any reply shall be filed by August 4, 2021. The deadline for Plaintiff's reply in support of the motion for reconsideration remains July 27, 2021. See ECF No. <u>53</u> . (HEREBY ORDERED by Judge Jesse M. Furman)(Text Only Order) (Furman, Jesse) (Entered: 07/14/2021)
07/15/2021	<u>56</u>	FIRST LETTER MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Rule 11 Motion for Sanctions</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated July 15, 2021. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 07/15/2021)
07/16/2021	<u>57</u>	ORDER granting <u>56</u> Letter Motion for Extension of Time to File Response/Reply re <u>56</u> FIRST LETTER MOTION for Extension of Time to File Response/Reply to <i>Plaintiff's Rule 11 Motion for Sanctions</i> addressed to Judge Jesse M. Furman from Angela M. Wanslow dated July 15, 2021., <u>54</u> FIRST MOTION for Sanctions <i>against defendants' attorneys pursuant to FRCP Rule 11 and the Court's inherent authority for submitting frivolous allegations in opposition to Plaintiff's reconsideration motion.</i> The Application is GRANTED. The time for Defendants to file an opposition to Plaintiff's sanctions motion is extended until August 18, 2021; the time for Plaintiff to file a reply is extended until September 1, 2021. Plaintiff, who is proceeding without counsel, has consented to receive electronic service of this Order through ECF. See ECF No. 19. The Clerk of Court is directed to terminate ECF No. 56. SO ORDERED. ( Responses due by 8/18/2021. Replies due by 9/1/2021.) (Signed by Judge Jesse M. Furman on 7/16/21) (yv) (Entered: 07/16/2021)
07/26/2021	<u>58</u>	FIRST REPLY MEMORANDUM OF LAW in Support re: <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion,, <u>45</u> Clerk's Judgment,, <i>dismissing the First Amended Complaint on the basis of res judicata.</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 07/26/2021)
08/18/2021	<u>59</u>	MEMORANDUM OF LAW in Opposition re: <u>54</u> FIRST MOTION for Sanctions <i>against defendants' attorneys pursuant to FRCP Rule 11 and the Court's inherent authority for submitting frivolous allegations in opposition to Plaintiff's reconsideration motion.</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Wanslow, Angela) (Entered: 08/18/2021)
08/31/2021	<u>60</u>	FIRST REPLY MEMORANDUM OF LAW in Support re: <u>54</u> FIRST MOTION for Sanctions <i>against defendants' attorneys pursuant to FRCP Rule 11 and the Court's inherent authority for submitting frivolous allegations in opposition to Plaintiff's reconsideration motion.</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 08/31/2021)
02/24/2022	<u>61</u>	MEMORANDUM OPINION AND ORDER re: <u>54</u> FIRST MOTION for Sanctions <i>against defendants' attorneys pursuant to FRCP Rule 11 and the Court's inherent authority for submitting frivolous allegations in opposition to Plaintiff's reconsideration motion.</i> filed by John David Whitfield, <u>46</u> FIRST MOTION for Reconsideration re; <u>44</u> Memorandum & Opinion, <u>45</u> Clerk's Judgment, <i>dismissing the First Amended Complaint on the basis of res judicata.</i> filed by John David Whitfield. Whitfield's claims in this suit are barred by res judicata. Accordingly, Whitfield's motion for reconsideration must be and is DENIED. It follows that his motion for sanctions against the City of New York based only on the fact that the City opposed his motion for reconsideration, see Pl.'s Sanctions Mot. 4 is also DENIED as frivolous. The Clerk of Court is directed to terminate ECF Nos. 46 and 54. SO ORDERED. (Signed by Judge Jesse M. Furman on 2/24/22) (yv) (Entered: 02/24/2022)
02/25/2022	<u>62</u>	FIRST NOTICE OF APPEAL from <u>61</u> Memorandum & Opinion,, <u>47</u> Order, Set Motion and R&R Deadlines/Hearings,,,,, <u>44</u> Memorandum & Opinion,, <u>55</u> Order on Motion for Sanctions, <u>45</u> Clerk's Judgment,, Document filed by John David Whitfield. Filing fee \$ 505.00. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit..(Whitfield, John) Modified on 2/28/2022 (wb). (Entered: 02/25/2022)
02/28/2022		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>62</u> Notice of Appeal,..(wb) (Entered: 02/28/2022)

02/28/2022		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>62</u> Notice of Appeal, filed by John David Whitfield were transmitted to the U.S. Court of Appeals..(wb) (Entered: 02/28/2022)
03/24/2022		USCA Case Number 22-412 from the U.S. Court of Appeals, 2nd Circ. assigned to <u>62</u> Notice of Appeal filed by John David Whitfield..(nd) (Entered: 03/24/2022)
03/24/2022		USCA Appeal Fees received \$ 505.00 receipt number 465401295847 on 03/23/2022 re: <u>62</u> Notice of Appeal filed by John David Whitfield. USCA Case No. 22-412..(nd) (Entered: 03/24/2022)
03/15/2024	<u>63</u>	TRUE COPY ORDER of USCA as to <u>62</u> Notice of Appeal, filed by John David Whitfield USCA Case Number 22-412. USCA Case Number 22-412. For the reasons explained above, we vacate the district court's dismissal of Whitfield's amended complaint on res judicata grounds and remand for further proceedings. In addition, we affirm the district court's denial of Whitfield's sanctions motion and deny his reassignment request. On remand, Defendants may be permitted to move to dismiss again based on the alternative grounds first raised in their December 2020 motion and as yet not addressed by either the district court or this Court. VACATED in part, AFFIRMED in part, and REMANDED. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Certified: 3/15/2024. (Attachments: # <u>1</u> Exhibit Supporting Document).(km) (Entered: 03/18/2024)
03/18/2024		Transmission of USCA Mandate/Order to the District Judge re: <u>63</u> USCA Order.(km) (Entered: 03/18/2024)
03/29/2024	<u>64</u>	NOTICE OF APPEARANCE by Rachel Kreutzer on behalf of Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 03/29/2024)
04/05/2024	<u>65</u>	MANDATE of USCA (Certified Copy) as to <u>62</u> Notice of Appeal filed by John David Whitfield. USCA Case Number 22-412. IT IS HEREBY ORDERED, ADJUDGED and DECREED that the district court's judgment is VACATED in part, AFFIRMED in part, and the case is REMANDED. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 4/5/2024. (Attachments: # <u>1</u> Opinion, # <u>2</u> Concurring in part).(nd) (Entered: 04/05/2024)
04/05/2024		Transmission of USCA Mandate to the District Judge re: <u>65</u> USCA Mandate,..(nd) (Entered: 04/05/2024)
04/08/2024	<u>66</u>	ORDER No later than April 22, 2024, each party shall submit a letter, not to exceed three pages, proposing next steps in this case in light of the Second Circuit's decision vacating in part the judgment of April 29, 2021, and remanding to this Court. See ECF No. 63. Plaintiff, who is proceeding without counsel, has consented to electronic service through ECF. See ECF No. 19. SO ORDERED. (Signed by Judge Jesse M. Furman on 4/8/2024) (jca) (Entered: 04/08/2024)
04/18/2024	<u>67</u>	LETTER addressed to Judge Jesse M. Furman from John Whitfield dated 4/18/2024 re: I am filing this letter in compliance with your April 8, 2024 order instructing the parties to submit a letter proposing next steps in this case in light of the Second Circuits decision. Document filed by John David Whitfield.(rrro) (Entered: 04/18/2024)
04/19/2024	<u>68</u>	LETTER addressed to Judge Jesse M. Furman from Rachel Kreutzer dated April 19, 2024 re: ECF Dkt. No. 66 Order. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 04/19/2024)
04/22/2024	<u>69</u>	ORDER: Accordingly, it is hereby ORDERED that Defendants shall file a renewed motion to dismiss no later than May 13, 2024. Plaintiff shall file any opposition by June 3, 2024, and Defendants shall file any reply by June 10, 2024. Alternatively, Plaintiff may choose to respond to Defendants' renewed motion to dismiss by filing an amended complaint by June 3, 2024. If Plaintiff believes that the pleading of additional facts will cure deficiencies identified in the motion to dismiss, Plaintiff should include those facts in the amended complaint. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss. If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendants shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that they rely on the previously filed motion to dismiss. If Defendants

		file an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendants file a new motion to dismiss or indicate that they rely on their previously filed motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition. SO ORDERED. ( Amended Pleadings due by 6/3/2024., Motions due by 5/13/2024., Replies due by 6/10/2024., Responses due by 6/3/2024) (Signed by Judge Jesse M. Furman on 4/22/2024) (vfr) (Entered: 04/22/2024)
05/13/2024	<u>70</u>	MOTION to Dismiss <i>the First Amended Complaint (Renewed)</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 05/13/2024)
05/13/2024	<u>71</u>	DECLARATION of Rachel Kreutzer in Support re: <u>70</u> MOTION to Dismiss <i>the First Amended Complaint (Renewed)</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra. (Attachments: # <u>1</u> Exhibit A–Plaintiff's Nov. 11, 2019 Amended Verified Petition, # <u>2</u> Exhibit B–Defendants' Dec. 30, 2019 Verified Answer, # <u>3</u> Exhibit C–YDS Applicants with Conviction Records Hired or Not Hired Report).(Kreutzer, Rachel) (Entered: 05/13/2024)
05/13/2024	<u>72</u>	MEMORANDUM OF LAW in Support re: <u>70</u> MOTION to Dismiss <i>the First Amended Complaint (Renewed)</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 05/13/2024)
05/13/2024	<u>73</u>	NOTICE of Notice Pursuant to Local Civil Rule 12.1 to Pro Se Litigant. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 05/13/2024)
06/01/2024	<u>74</u>	SECOND AMENDED COMPLAINT amending <u>30</u> Amended Complaint, against All Defendants with JURY DEMAND.Document filed by John David Whitfield. Related document: <u>30</u> Amended Complaint,. (Attachments: # <u>1</u> Appendix The Whitfield Files is the awarding winning memoir the Defendants relied on to withdraw the YDS job offer).(Whitfield, John) (Entered: 06/01/2024)
06/21/2024	<u>75</u>	MOTION to Dismiss <i>the Second Amended Complaint</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 06/21/2024)
06/21/2024	<u>76</u>	DECLARATION of Rachel Kreutzer in Support re: <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra. (Attachments: # <u>1</u> Exhibit A–Plaintiff's Nov. 11, 2019 Amended Verified Petition, # <u>2</u> Exhibit B–Defendants' Dec. 30, 2019 Verified Answer, # <u>3</u> Exhibit C–YDS Applicant with Conviction Records Hired or Not Hired Report).(Kreutzer, Rachel) (Entered: 06/21/2024)
06/21/2024	<u>77</u>	MEMORANDUM OF LAW in Support re: <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint</i> . . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 06/21/2024)
06/21/2024	<u>78</u>	NOTICE of Pursuant to Local Civil Rule 12.1 to Pro Se Litigant re: <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint</i> .. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 06/21/2024)
06/24/2024	<u>79</u>	ORDER denying as moot <u>70</u> Motion to Dismiss. In light of Defendants' new motion to dismiss, see ECF No. 75, Defendants earlier motion to dismiss filed at ECF No. 70 is hereby DENIED as moot. Plaintiff's opposition to the new motion to dismiss is due by July 8, 2024. Defendants' reply, if any, is due by July 15, 2024. The Clerk of Court is directed to terminate ECF No. 70 and to reopen the case. SO ORDERED. (Signed by Judge Jesse M. Furman on 6/24/24) (yv) (Entered: 06/24/2024)
06/24/2024		Set/Reset Deadlines: Responses due by 7/8/2024. Replies due by 7/15/2024. (yv) (Entered: 06/24/2024)

07/01/2024	<u>80</u>	Costs Taxed as to <u>65</u> USCA Mandate, USCA Case Number 22–0412 in the amount of \$506.95 on 7/1/2024 in favor of Appellant, John David Whitfield against Appellees, City of New York, officially, Joseph Cardieri, individually, Kathleen Skowyra, individually, Jennifer Fellman, individually, Phoebe Rosen, individually, David A. Hansell, individually. (tp) (Entered: 07/01/2024)
07/02/2024	<u>81</u>	AFFIDAVIT of John D. Whitfield, Plaintiff in Opposition re: <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint</i> .. Document filed by John David Whitfield. (Attachments: # <u>1</u> Exhibit Ex # 1–Clemency application, # <u>2</u> Exhibit Ex # 2–Masters Degree Transcript, # <u>3</u> Exhibit Ex # 3–Parole Board Transcripts & Parole Packet Table of Content, # <u>4</u> Exhibit Ex # 4–ACS YDS job advertisement, # <u>5</u> Exhibit Ex # 5–ACS Job Positing Notice, # <u>6</u> Exhibit Ex # 6–ACS YDS Notice of Examination, # <u>7</u> Exhibit Ex # 7–August 14, 2018 Justice Center Letter, # <u>8</u> Exhibit Ex # 8–Council for Unity (CFU) Employment Verification Form, # <u>9</u> Exhibit Ex # 9–Nov. 11, 2019 Amended Verified Petition, # <u>10</u> Exhibit Ex # 10–Defendants Verified Answer, # <u>11</u> Exhibit Ex # 11–Affidavit of defendant Joseph Cardieri, Esq., # <u>12</u> Exhibit Ex # 12–Affidavit of defendant Jennifer Fiellman, Esq, # <u>13</u> Exhibit Ex # 13–Affidavit of defendant Kathleen Skowyra, # <u>14</u> Exhibit Ex # 14–Affidavit of Jeffrey Rivera, # <u>15</u> Exhibit Ex # 15–Affidavit of Luis Brown, # <u>16</u> Exhibit Ex # 16–Affidavit of Wayne Harris, # <u>17</u> Exhibit Ex # 17–Feb. 25, 2020 Court Transcripts, # <u>18</u> Exhibit Ex # 18–Aug. 26, 2020 Decision, Order and Judgment, # <u>19</u> Exhibit Ex # 19–DCSAs Personnel Rules and Regulations of the City of New York, Rule IV Examination Procedure, Veteran Preference, # <u>20</u> Exhibit Ex # 20–DCSAs Personnel Rules and Regulations of the City of New York, V – Appointments and Promotions, # <u>21</u> Exhibit Ex # 21–CBS News Video Jacques Edwards Assault – The Video will follow– This document consist of 5 photos of screenshots from the Video – Efforts are being made to submit the actual video).(Whitfield, John) (Entered: 07/02/2024)
07/02/2024	<u>82</u>	FIRST MEMORANDUM OF LAW in Opposition re: <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint. and in Support of Cross Motion for Partial Summary Judgment</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 07/02/2024)
07/02/2024	<u>83</u>	FIRST MOTION for Partial Summary Judgment <i>against the Defendants</i> . Document filed by John David Whitfield. (Attachments: # <u>1</u> Affidavit Plaintiff John D. Whitfields Rule 56 Statement of Material Facts as to which there is no Genuine Issue to be tried, in support of Plaintiffs Cross Motion for Partial Summary Judgment).(Whitfield, John) (Entered: 07/02/2024)
07/03/2024	<u>84</u>	ORDER On April 22, 2024, the Court denied Plaintiff's request to file a motion for partialsummary judgment "without prejudice to renewal if Defendants' renewed motion to dismiss is denied in any part." ECF No. 69. Defendants' motion to dismiss, see ECF No. 75, is currently pending. ECF No. 79. Notwithstanding the Court's April 22, 2024 Order, Plaintiff filed a motion for partial summary judgment on the same day as his brief in opposition to Defendants' motion not dismiss. See ECF No. 83. In light of Plaintiff's pro se status and the age of this case, the Court will permit Plaintiff's motion despite the April 22, 2024 Order. Defendants shall file a single brief containing both their reply in support of their motion to dismiss and their opposition to Plaintiff's motion for partial summary judgment no later than July 26, 2024. Plaintiff may file any reply (as to his motion for partial summary judgment only) by August 2, 2024. SO ORDERED. (Replies due by 8/2/2024., Responses due by 7/26/2024) (Signed by Judge Jesse M. Furman on 7/3/2024) (jca) (Entered: 07/03/2024)
07/15/2024	<u>85</u>	LETTER MOTION for Extension of Time <i>for defendants' opposition to plaintiffs motion for partial summary judgment and reply in further support of motion to dismiss the second amended complaint</i> addressed to Judge Jesse M. Furman from Rachel Kreutzer dated July 15, 2024., LETTER MOTION for Leave to File Excess Pages <i>for defendants' opposition to plaintiffs motion for partial summary judgment and reply in further support of motion to dismiss the second amended complaint</i> addressed to Judge Jesse M. Furman from Rachel Kreutzer dated July 15, 2024. Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 07/15/2024)
07/15/2024	<u>86</u>	ORDER granting <u>85</u> Letter Motion for Extension of Time; granting <u>85</u> Letter Motion for Leave to File Excess Pages. Application GRANTED. The Court is unlikely to grant further extensions of the briefing schedule. In addition, Plaintiff's reply memorandum



		in support of his motion for partial summary judgment, now due September 6, 2024, shall be limited to 10 double-spaced pages. The Clerk is directed to terminate ECF No. 85. SO ORDERED. (Signed by Judge Jesse M. Furman on 7/15/24) (yv) (Entered: 07/15/2024)
07/15/2024		Set/Reset Deadlines: Replies due by 9/6/2024. (yv) (Entered: 07/15/2024)
08/30/2024	<u>87</u>	REPLY MEMORANDUM OF LAW in Support re: <u>83</u> FIRST MOTION for Partial Summary Judgment <i>against the Defendants.</i> , <u>75</u> MOTION to Dismiss <i>the Second Amended Complaint.</i> . Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 08/30/2024)
08/30/2024	<u>88</u>	COUNTER STATEMENT TO Document filed by Joseph Cardieri, City of New York, Jennifer Fellman, David A. Hansell, Phoebe Rosen, Kathleen Skowyra..(Kreutzer, Rachel) (Entered: 08/30/2024)
09/04/2024	<u>89</u>	FIRST REPLY MEMORANDUM OF LAW in Support re: <u>83</u> FIRST MOTION for Partial Summary Judgment <i>against the Defendants.</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 09/04/2024)
12/23/2024	<u>90</u>	OPINION AND ORDER. For the foregoing reasons, Defendants' motion to dismiss is GRANTED in part and DENIED in part. More specifically, the following claims must be and are DISMISSED: (1) Whitfield's First Amendment retaliation claims against the individual Defendants; (2) His Fourteenth Amendment discrimination claims; and (3) Any New York State Correction Law claim. Whitfield's other claims namely, his First Amendment retaliation claim against the City and his NYSHRL and NYCHRL claims against all Defendants survive. Additionally, the Court declines to sua sponte grant Whitfield leave to amend his dismissed claims. Although leave to amend a pleading should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), and courts should generally grant pro se plaintiffs leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated," Gomez v. USAA Fed. Sav. Bank, 171 F.3d 794, 795 (2d Cir. 1999) (per curiam), "it is within the sound discretion of the district court to grant or deny leave to amend, McCarthy v. Dun & Bradstreet Corp., 482 F.3d 184, 200 (2d Cir. 2007). Here, Whitfield has neither sought leave to amend nor suggested that he possesses any additional facts that could cure the defects in his dismissed claims. See, e.g., TechnoMarine SA v. Giftports, Inc., 758 F.3d 493, 505 (2d Cir. 2014); Baptiste v. City Univ. of New York, 680 F. Supp. 3d 415, 428 (S.D.N.Y. 2023) (declining to grant leave to amend as to certain claims in the absence of any suggestion that additional facts could remedy defects in the plaintiff's pleadings). Furthermore, Whitfield was on notice of the vast majority of Defendants' arguments when he filed the Complaint in response to Defendants' original motion to dismiss, and he was expressly warned that he would "not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss." ECF No. 69; see Natl Credit Union Admin. Bd. v. U.S. Bank Nat'l Assn, 898 F.3d 243, 257–58 (2d Cir. 2018) ("When a plaintiff was aware of the deficiencies in his complaint when he first amended, he clearly has no right to a second amendment even if the proposed second amended complaint in fact cures the defects of the first." (cleaned up)). Finally, as to nearly all of Whitfield's dismissed claims (i.e., all but the race discrimination claim), the defects are substantive, so amendment would be futile. See, e.g., Roundtree v. NYC, No. 19–CV–2475 (JMF), 2021 WL 1667193, at *6 (S.D.N.Y. Apr. 28, 2021) (collecting cases). Unless and until the Court orders otherwise, Defendants shall answer Whitfield's remaining claims within four weeks of the date of this Opinion and Order. By separate Order, the Court will schedule an initial pretrial conference to be held thereafter. The Clerk of Court is directed to terminate ECF Nos. 75 and 83 and to mail a copy of this Opinion and Order to Plaintiff. SO ORDERED. (Signed by Judge Jesse M. Furman on 12/23/24) (yv) (Entered: 12/23/2024)
12/23/2024	<u>91</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE IN PRO SE ACTION: Unless and until the Court orders otherwise, counsel for all parties shall appear for an initial pretrial conference with the Court on February 13, 2025, at 3:00 p.m. The conference will be held remotely by telephone. The parties should join the conference by calling the Court's dedicated conference line at (855) 244–8681 and using access code 2303 019 3884, followed by the pound (#) key. When prompted for an attendee ID number, press the pound (#) key again. IT IS FURTHER ORDERED that by Thursday of the

		week prior to the initial pretrial conference, the parties each submit a letter, not to exceed five (5) pages, providing the following information in separate paragraphs as further set forth in this Order. The Clerk of the Court is directed to mail a copy of this Order to Plaintiff. SO ORDERED. ( Initial Conference set for 2/13/2025 at 03:00 PM before Judge Jesse M. Furman.) (Signed by Judge Jesse M. Furman on 12/23/24) (yv) (Entered: 12/23/2024)
12/30/2024	<u>92</u>	PROPOSED ORDER FOR WITHDRAWAL OF ATTORNEY. Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Wanslow, Angela) (Entered: 12/30/2024)
12/31/2024	<u>93</u>	LETTER MOTION for Extension of Time <i>to serve Motion for Reconsideration</i> addressed to Judge Jesse M. Furman from Rachel Kreutzer dated December 31, 2024., LETTER MOTION to Stay re: <u>90</u> Memorandum & Opinion,,,,,,,,, <u>91</u> Order for Initial Pretrial Conference,,, <i>inter alia</i> addressed to Judge Jesse M. Furman from Rachel Kreutzer dated December 31, 2024. Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 12/31/2024)
01/02/2025	<u>94</u>	ORDER granting in part and denying in part <u>93</u> Letter Motion for Extension of Time (Motions due by 1/20/2025.); denying without prejudice to renewal by formal motion <u>93</u> Letter Motion to Stay. Application GRANTED in part and DENIED in part. The deadline to file any motion for reconsideration is hereby EXTENDED to January 20, 2025; any opposition to a motion for reconsideration shall be filed within two weeks of such a motion; and any reply shall be filed within one week of any opposition. The request for a stay of discovery is DENIED without prejudice to renewal after a motion for reconsideration is filed. All other dates and deadlines, including the initial pretrial conference date, remain in effect. The Clerk of Court is directed to mail a copy of this endorsed letter to Plaintiff and to terminate ECF No. 93. SO ORDERED. (Signed by Judge Jesse M. Furman on 1/2/25) (yv) (Entered: 01/02/2025)
01/02/2025	<u>95</u>	ORDER – WITHDRAWAL OF COUNSEL, The undersigned hereby informs the Court that I am no longer associated with the New York City Law Department, counsel for Defendants, and respectfully request that the Court withdraw my appearance as counsel in this matter. The Clerk of Court is directed to mail a copy of this endorsed letter to Plaintiff. ( Attorney Angela M. Wanslow terminated.) (Signed by Judge Jesse M. Furman on 1/2/25) (yv) (Entered: 01/02/2025)
01/03/2025	<u>96</u>	FIRST MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, <i>dated 12/23/2024.</i> , FIRST MOTION for Reargument re: <u>78</u> Notice (Other), <u>89</u> Reply Memorandum of Law in Support of Motion, <u>74</u> Amended Complaint, <u>90</u> Memorandum & Opinion,,,,,,,,, <u>81</u> Affidavit in Opposition to Motion,,,,, <u>77</u> Memorandum of Law in Support of Motion, <u>82</u> Memorandum of Law in Opposition to Motion, <u>76</u> Declaration in Support of Motion, <u>87</u> Reply Memorandum of Law in Support of Motion, <u>88</u> Counter Statement to Rule 56.1 . Document filed by John David Whitfield..(Whitfield, John) (Entered: 01/03/2025)
01/10/2025	<u>97</u>	LETTER MOTION for Extension of Time to File Answer re: <u>74</u> Amended Complaint, addressed to Judge Jesse M. Furman from Rachel Kreutzer. Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 01/10/2025)
01/10/2025	<u>98</u>	ORDER granting <u>97</u> Letter Motion for Extension of Time to Answer. Application GRANTED. The Clerk of Court is directed to terminate ECF No. 97 and to mail a copy of this endorsed letter to Plaintiff. SO ORDERED. (Signed by Judge Jesse M. Furman on 1/10/2025) (ks) (Entered: 01/10/2025)
01/15/2025	<u>99</u>	MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, . Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 01/15/2025)
01/15/2025	<u>100</u>	MEMORANDUM OF LAW in Support re: <u>99</u> MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, . . Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 01/15/2025)

01/16/2025	<u>101</u>	LETTER MOTION to Stay <i>Discovery, inter alia</i> from Rachel Kreutzer dated January 16, 2025. Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 01/16/2025)
01/17/2025	<u>102</u>	MEMORANDUM OF LAW in Opposition re: <u>96</u> FIRST MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, dated 12/23/2024.FIRST MOTION for Reargument re: <u>78</u> Notice (Other), <u>89</u> Reply Memorandum of Law in Support of Motion, <u>74</u> Amended Complaint, <u>90</u> Memorandum & Opinion,,,,,,,,, <u>81</u> Affidavit in Opposition to Motion,,,,,,,,, <u>77</u> Memorandum of Law in Suppo . Document filed by City of New York, Joseph Cardieri, Kathleen Skowyra, Jennifer Fellman, Phoebe Rosen, David A. Hansell..(Kreutzer, Rachel) (Entered: 01/17/2025)
01/17/2025	<u>103</u>	COUNTER LETTER MOTION to Stay re: <u>101</u> LETTER MOTION to Stay <i>Discovery, inter alia</i> from Rachel Kreutzer dated January 16, 2025. <i>Plaintiff's Opposition Letter to Defendants' motion to Stay Discovery</i> addressed to Judge Jesse M. Furman from John D. Whitfield – Plaintiff dated January 17, 2025. Document filed by John David Whitfield. (Attachments: # <u>1</u> Exhibit Exhibit # 1–Plaintiff's email showing that he served Defendants with his First Set of Interrogatories, # <u>2</u> Exhibit Exhibit # 2–Plaintiff's First Set of Interrogatories dated January 6, 2025, # <u>3</u> Exhibit Exhibit # 3–Plaintiff's email showing that he responded to Defendants' request to consent request to stay discovery).(Whitfield, John) (Entered: 01/17/2025)
01/17/2025	<u>104</u>	MEMORANDUM OPINION AND ORDER: For the foregoing reasons, Defendants' motion for reconsideration is DENIED. Accordingly, their motion for a stay is denied as moot. The Court reserves judgment on Plaintiff's own motion for reconsideration, see ECF No. 96, pending his reply. The Clerk of Court is directed to terminate ECF No. 99, 101, and 103. SO ORDERED. re: <u>99</u> MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, . filed by Jennifer Fellman, Kathleen Skowyra, Joseph Cardieri, Phoebe Rosen, David A. Hansell, City of New York, <u>101</u> LETTER MOTION to Stay <i>Discovery, inter alia</i> from Rachel Kreutzer dated January 16, 2025. filed by Jennifer Fellman, Kathleen Skowyra, Joseph Cardieri, Phoebe Rosen, David A. Hansell, City of New York, <u>103</u> COUNTER LETTER MOTION to Stay re: <u>101</u> LETTER MOTION to Stay <i>Discovery, inter alia</i> from Rachel Kreutzer dated January 16, 2025. <i>Plaintiff's Opposition Letter to Defendants' motion to Stay Discovery</i> addressed to J filed by John David Whitfield. (Signed by Judge Jesse M. Furman on 1/17/2025) (ks) (Entered: 01/17/2025)
01/23/2025	<u>105</u>	REPLY MEMORANDUM OF LAW in Support re: <u>96</u> FIRST MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion,,,,,,,,, dated 12/23/2024.FIRST MOTION for Reargument re: <u>78</u> Notice (Other), <u>89</u> Reply Memorandum of Law in Support of Motion, <u>74</u> Amended Complaint, <u>90</u> Memorandum & Opinion,,,,,,,,, <u>81</u> Affidavit in Opposition to Motion,,,,,,,,, <u>77</u> Memorandum of Law in Suppo <i>of reply to Defendants Opposition</i> . Document filed by John David Whitfield..(Whitfield, John) (Entered: 01/24/2025)
01/29/2025	<u>106</u>	MEMORANDUM AND OPINION re: <u>96</u> FIRST MOTION for Reconsideration re; <u>90</u> Memorandum & Opinion dated 12/23/2024. FIRST MOTION for Reargument re: <u>78</u> Notice (Other), <u>89</u> Reply Memorandum of Law in Support of Motion, <u>74</u> Amended Complaint, <u>90</u> Memorandum & Opinion, <u>81</u> Affidavit in Opposition to Motion, <u>77</u> Memorandum of Law in Suppo filed by John David Whitfield. In this action, familiarity with which is presumed, Plaintiff John Whitfield, proceeding without counsel, brings claims against the City of New York and employees of the City's Administration for Children's Services ("ACS") arising from ACS's rejection of his application to be a Youth Development Specialist. By Opinion and Order dated December 23, 2024, the Court granted in part and denied in part Defendants' motion to dismiss. See <i>Whitfield v. City of New York</i> , No. 20–CV–4674 (JMF), 2024 WL 5202698 (S.D.N.Y. Dec. 23, 2024) (ECF No. 90). Specifically, as relevant here, the Court granted Defendants' motion to dismiss with respect to Whitfield's First Amendment retaliation claim against the individual Defendants on the ground that they were entitled to qualified immunity. See <i>id.</i> at *6–8. Whitfield now moves for reconsideration of that portion of the Courts ruling. See ECF No. 96 ("Pl.'s Recon. Mem.").1 For the reasons stated below, his motion for reconsideration is DENIED. As further stated in this order, At bottom, Whitfield "merely disagree[s] with the Court's decision. But that is a reason to appeal, not a basis to move for reconsideration." <i>Allen v. City of New York</i> , No. 19–CV–3786 (JMF), 2023 WL 171402, at *1 (S.D.N.Y. Jan.

		12, 2023). Accordingly, and for the reasons stated above, Whitfield's motion for reconsideration must be and is DENIED. The Clerk of Court is directed to terminate ECF No. 96. SO ORDERED. (Signed by Judge Jesse M. Furman on 1/29/2025) (ar) (Entered: 01/29/2025)
02/03/2025	<u>107</u>	FIRST NOTICE OF INTERLOCUTORY APPEAL from <u>90</u> Memorandum & Opinion,,,,,,,,, <u>106</u> Memorandum & Opinion,,,,,,,,. Document filed by John David Whitfield. Filing fee \$ 605.00. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit..(Whitfield, John) Modified on 2/3/2025 (nd). (Entered: 02/03/2025)
02/03/2025		Appeal Fee Due: for <u>107</u> Notice of Interlocutory Appeal,. \$605.00 Appeal fee due by 2/18/2025..(nd) (Entered: 02/03/2025)
02/03/2025		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>107</u> Notice of Interlocutory Appeal,..(nd) (Entered: 02/03/2025)
02/03/2025		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>107</u> Notice of Interlocutory Appeal, filed by John David Whitfield were transmitted to the U.S. Court of Appeals..(nd) (Entered: 02/03/2025)